FISHERIES (IRELAND).

RETURN to an Order of the Honourable The House of Commons, dated 24 March 1863;—*for*,

COPY "of any CORRESPONDENCE between the Ordnance or Royal Engineers' Department, the Executive Government, the Commissioners for Fisheries, and any other Persons, with reference to settling the Rights of FISHING on the SHORES of the LANDS in the Possession of the ORDNANCE DEPARTMENT in *Ireland*."

(*Colonel French.*)

Ordered, by The House of Commons, *to be Printed*, 4 *May* 1863.

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SCHEDULE.

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COPY of any CORRESPONDENCE between the Ordnance or Royal Engineers' Department, the Executive Government, the Commissioners for Fisheries, and any other Persons, with reference to settling the Rights of FISHING on the SHORES of the LANDS in the Possession of the ORDNANCE DEPARTMENT in *Ireland*.

The Chief Secretary, Ireland, to the Secretary of State for War.

Sir, Dublin Castle, 13 November 1858

THE Lord Lieutenant having been informed that it is your intention to let, on the part of the War Department, certain shores and strands (as named in the margin) for fishing purposes, I am directed by his Excellency to request that you will have the kindness to acquaint me whether he has been correctly informed; and in the event of such being your intention, I am desired to express his Excellency's hope that no further proceedings will be taken in the matter until his Excellency has had an opportunity of representing to you the great dissatisfaction that is likely to arise throughout the country from such a course being adopted.

Dublin Bay.
River Liffey.
Lough Swilly.
Lough Foyle.
Galway Bay.
Bantry Bay.
Upper and Lower Shannon.
Cork Harbour.
Lough Mahon.
Kinsale Harbour.
River Fergus.
Waterford Harbour.
River Boyle.
River Lee.
Belfast Lough.
Lough Erne.
Rivers of Gort and Blackwater.

I am, &c.
(signed) *Naas.*

The Right Honourable the Secretary for War.

MEMORANDUM transmitted to Lord *Seaton* by Colonel *Rose*, Commanding Engineer, and forwarded by the Military Secretary to Lord *Naas*.

17 November 1858.

THE proprietors of lands bounded by the sea, or by rivers, have the right to fish off their lands, provided there is no superior right (under ancient grants, &c.) vested in any other person, and that the locality does not come under the description of places where fishing is prohibited by the Fishery Laws.

With a view to ascertaining at what stations in Ireland the War Department has a right of fishing, a list of its lands bounded on any side by water has been drawn up, and inquiries are being made with a view to ascertaining what legal objections exist to the exercise of such right; and where any are found, the stations are expunged from the list.

The right of fishing has already been let at Kilkerrin and Carrick Island, on the Lower Shannon. At the former station this right had been usurped for many years by a trespasser, against whom legal proceedings were taken by the tenant, who succeeded in ejecting him.

At Duncannon Fort the fishery has been let by Lord Templemore, and inquiry is now being made as to whether his Lordship possesses a superior right to that of the Secretary of State for War, as proprietor of the land, and the course to be ultimately adopted will depend upon the result of that inquiry.

At such stations where it may be found that the War Department has an undoubted legal right to fish, it is proposed to exercise it, and to let it by public competition.

No hasty or unadvised step will be taken by me, and everything will be referred to legal opinions.

(signed) *C. Rose.*

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The Under Secretary of State for War, to the Chief Secretary, Ireland.

My Lord, War Office, 20 November 1858.

I HAVE the honour, by direction of Secretary Major General Peel, to acknowledge the receipt of your letter of the 13th instant, requesting the suspension of proceedings for the letting of the fisheries in certain parts of Ireland.

And I am to acquaint you, for the information of his Excellency the Lord Lieutenant, that Major General Peel will cause immediate inquiries to be made on the subject.

I have, &c.
(signed) *Hardinge.*

The Lord Naas, M.P.,
Dublin.

The Military Secretary to *R. Wingfield*, Esq.

Commander of the Forces' Office,
Sir, Royal Hospital, Dublin, 24 November 1858.

WITH reference to your letter to Colonel Colborne relative to the fishing rights claimed by the War Department, General Lord Seaton requests that the enclosed note from Colonel Rose upon that subject and copies of advertisements may be forwarded to you for the information of Lord Naas.

I have, &c.
(signed) *A. Montgomery Moore,*
Captain and Acting Military Secretary.

Richard R. Wingfield, Esq.,
&c. &c. &c.
Chief Secretary's Office,
Dublin Castle.

Colonel *Rose* to the Military Secretary.

IN reply to the inquiry contained in Mr. Wingfield's note in reference to the memorandum I placed in Lord Seaton's hands, I have to state that only one advertisement relative to the War Department's right of fishing has yet been inserted in the newspapers by me. It called for tenders for fishing at Kilkerrin and Carriek Island on the Shannon, and was issued in January last, under the authority of the Secretary of State for War. The late Board of respective officers then in charge of War Department lands and rights issued, under Mr. Monsell's authority, an advertisement relating to Kilkerrin and to the islands and lands in the county of Cork, in September 1856. Copies of both advertisements are enclosed.

(signed) *Cowper Rose.*

Castle, 24 November 1858.

The memorandum relative to the War Department's rights of fishing now in Lord Naas's hands was drawn up to assist my own memory in my conversation with Lord Seaton on the subject, and was left with his Lordship for his information, which must account for its being a rough note.

(signed) *C. R.*

RIGHT OF FISHING.

To be Let.

NOTICE is hereby given that the right of fishery along and off lands of the Secretary of State for War, at the undermentioned places, bounded on any part by the sea, or by the River Shannon, will be let, during the open season, to such persons as may be desirous of tendering for the same, subject to the Regulations of the Commissioners of Fisheries, and the terms and conditions of letting, viz.:—

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Lower Shannon, Kilkerren, and Carrick Island.

Forms of tender, with terms and conditions of letting, can be obtained on applicatio to the Commanding Royal Engineer in Ireland, Dublin Castle; the Royal Engineer's Office, Limerick.

The proposals to be sealed and transmitted to "The Director of Contracts, War Office, Pall Mall, London, S. W.," so as to be received on or before the 9th day of February 1858, and to be marked on the outside, "Tender for Right of Fishing, Ireland."

Commanding Royal Engineer's Office,
Dublin, 21 January 1858.

Chairman of the Board of Works to the Chief Secretary, Ireland.

My Lord, 3 December 1858.

In reply to your reference of the 30th ultimo, enclosing a proposition for letting the fisheries in all cases where the War Department possess a right of fishing from lands in its possession, and bounded on any side by water, and also enclosing a resolution of the Finance Committee of the Board of Conservators elected under the provisions of Acts 11 & 12 Vict. c. 92, for the fishery district of the Shannon, expressing their "dissatisfaction at the practice lately adopted by the Board of Ordnance, of letting shores or strands on the River Shannon for fishery purposes, as they conceive that any attempt of the Board of Ordnance, or any other Government Department, to establish claims for fisheries will seriously interfere with long-established public rights, and be productive of much public discontent," I beg to state, that not being acquainted with the precise nature of the tenures under which the War Department holds the small tracts of land now in its possession, both on the seacoasts of Ireland and within the limits of the freshwater of the River Shannon, I am unable to offer any opinion in regard to the absolute rights of fishery possessed by that department. I rather suppose that the greater part, if not the whole, of the tracts were purchased by inquisition under the Defence Acts, the property having been thus acquired solely for the purpose of erecting batteries, forts, barracks, &c. thereon; and under such circumstances it would appear to be doubtful whether the fishery was included in the purchase, and in such case whether the proprietorship of the land so purchased, and adjoining the sea or river, can legally interfere with and supplant that of the proprietor of the surrounding estate, a small portion of which only was purchased for a special purpose under an Act of Parliament.

There can, I think, be no doubt, in all cases in which a special right of a several fishery had been granted to the proprietor within certain limits, and a small part of the shore within those limits was subsequently acquired by the War Department, the right of such proprietorship in the fishery cannot be interfered with. Under the recent Fishery Acts, where no grant of a several fishery exists, the right of fishing with certain engines along the seacoast is in the proprietor of the soil adjoining, and is frequently used or let by him to others; but whether, under such circumstances, the War Department has power to let a right to a fishery along a small portion of the coast included within the right of fishery belonging to the proprietor of the estate of which this small portion formed a part, would appear to me questionable. But even supposing the fishery in this case does belong to the War Department, it appears to me doubtful whether in prudence it should be exercised. It is a claim which has not heretofore been made, and it is one which will produce but a very small return, and, if the right be not leased to the original proprietor, will probably lead to much contention between the proprietor or his tenants, and the tenants of the trifling fisheries let by the War Department.

I have, &c.
(signed) *Richard Griffith.*

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The Under Secretary of State for War to the Chief Secretary, Ireland.

My Lord, War Office, 4 December 1858.

Adverting to the communication from this office of the 20th ultimo, relative to the letting by this department of the rights of fishing at various stations in Ireland,

I have the honour, by desire of Secretary Major General Peel, to transmit, for the information of his Excellency the Lord Lieutenant, the accompanying report of the Commanding Royal Engineer, dated the 22d ultimo, upon the subject, with its enclosures, from which you will perceive that he is giving great care and attention to the subject, and is very desirous of avoiding litigation.

Major General Peel begs you will assure his Excellency, that though it is his duty to see that the just rights of the War Department are maintained, and its property managed to the best advantage, all possible care will be taken to avoid litigation and interference with the rights of others.

The return of the enclosures is requested.

I have, &c.
(signed) *B. Hawes.*

The Commanding Royal Engineer in Ireland to the Inspector General of Fortifications, in reference to the Objections made to the War Department letting its Right of Fishing at various Stations in Ireland.

Sir, Dublin, 22 November 1858.

In reply to your Minute of 19th instant (Dublin—299—1), on the enclosed letter, I have the honour to state that, under the Act 5 & 6 Vict. c. 106, all proprietors of lands adjoining the sea-coast, or on the banks of rivers, have a right to fish off these lands, provided no superior right, under ancient grants, &c., is vested in any other person, or that the locality does not come within the description of places at which fishing is prohibited by the Fishery Laws.

With a view to ascertaining to what extent the War Department possesses this right, a list of all the stations in Ireland bounded on any side by water has been drawn up, and inquiries are being made as to whether there are any obstacles or objections of the nature alluded to; and where they are found to exist, the station is struck out.

At Kilkerrin and Carrick Island, in the Lower Shannon, the right to the fishing was let in the early part of this year. At the former station that right had long been usurped by a trespasser, against whom legal proceedings were taken by the War Department tenant, who succeeded in ejecting him.

At Duncannon Fort the fishery has been let by Lord Templemore, and inquiry is now being made by the local solicitor, under instructions from Mr. Clode, as to whether his Lordship possesses a right superior to that of the War Department.

This is the present state of the fishery question in all its bearings.

I annex a newspaper paragraph * descriptive of an interview between Lord Naas and two gentlemen, stated to have constituted a deputation to bring under the notice of the Executive Government the intention of the War Department to let the right of fishing at stations "many of which were in the established, several, or exclusive fishery of others, and many of them in channels where it would be quite illegal to set fixed engines for fishing;" and in reference thereto, have to repeat that there has been no intention or desire whatever to claim for the War Department anything more than the rights of an individual owner; and I am now ascertaining what those rights are, and at what stations the War Department is entitled to fish off its lands.

* Cut out of Saunders' "News Letter," of 13 November.

In furtherance of this object, I, at the request of the individual whom I imagine to be alluded to as the Secretary to the Dublin Board of Conservators, and on his repeated voluntary offers to give me every information in his power, transmitted to him the list as originally prepared, with an inquiry as to whether he was aware of any objections to the right of fishing being exercised at either of the stations named. I enclose a copy of my letter, with the reply, which affording little or none of the information desired, I have been obliged to seek it without his aid, before finally submitting the matter for your consideration and orders as to whether the legal, and at some of the places (in my opinion) valuable, rights of the department to the fishing should be let by public competition in the same manner as the right to cut seaweed or to cultivate War Department lands, &c.;—it appearing to me that there is no more reason why one should be let than the other, or why the War Department should abandon its rights for the pecuniary advantage of a few individuals to whom no such sacrifice would be made by private proprietors.

It is quite open to the Board of Conservators to point out which of the stations are "in the established, several, or exclusive fishery of others," or "in channels where it would be quite illegal to set fixed engines for fishing;" and if they could be induced to do so, the information

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tion would be gladly received; and while they would be materially aiding the department, they would at the same time altogether remove the chances of the litigation they seem to apprehend, and which I am quite as anxious to avoid.

I have, &c.
(signed) *Cowper Rose,*
Colonel Commanding Engineers.

Colonel Commanding Royal Engineers in Ireland, to Clerk of Conservators of Dublin Fishery District.

Sir, Dublin, 18 June 1858.

WITH reference to the several communications, in which you have taken part in my office, respecting the War Department Fisheries, I herewith transmit you a list of the stations in Ireland proposed to be advertised, in time to admit of the tenants commencing next season; and I will thank you for any suggestions you may be disposed to offer, either on the proposed terms and conditions of letting, or on any objections that may occur to you as of sufficient importance to prevent the right of fishing being exercised by the War Department.

Please to return the enclosed papers.

I am, &c.
(signed) *Cowper Rose,*
Colonel Commanding Royal Engineers.

LIST of Stations in Ireland at which the War Department appear to have Rights of Fishery (not already let).

Dublin Bay	1.—Pigeon House Fort	South Towers.
	2.—No. 4, Maghera Point	
	3.—No. 6, Loughlinstown	
	4.—No. 9, Dalkey Island	
	5.—No. 11, Sandy Cove	
	6.—No. 1, Sutton	North Towers.
	7.—No. 3, Howth	
	8.—No. 6, Balcarrick	
	9.—No. 11, Skerries or Red Island	
Lough Swilly	10.—Dunree Fort	County Donegal.
	11.—Knockalla	
	12.—Ned's Point	
Lough Foyle	13.—Green Castle	County Londonderry.
	14.—Magilligan	
Galway Bay	15.—Aughanish	County Clare.
	16.—Tinnevarra	
	17.—Cashleh	County Galway.
	18.—Rinmore	
Bantry Bay	19.—Garnish Island	County Cork.
Upper Shannon	20.—Shannon Bridge	King's County.
	21.—Lamb Island	
	22.—Keelogue	
Lower Shannon	23.—Limerick Castle Barracks	County Limerick.
	24.—King's Island (Limerick)	
	25.—Tarbert	County Kerry.
	26.—Doonaha	County Clare.
	27.—Scattery Island	
	28.—Kileredane	
Cork Harbour	29.—Hawlbowline Island	County Cork.
	30.—Rocky Island	
	31.—Spike Island	
	32.—Camden Fort	
	33.—Carlisle Fort	
Longh Mabon	34.—Manning Tower (on Great Island).	
Kinsale Harbour	35.—Charles Fort	County Cork.
River Fergus	36.—Clare Castle Barracks	County Clare.
Waterford Harbour	37.—Duncannon Fort	County Wexford.
River Liffey	38.—Newbridge Barracks	County Kildare.
River Boyle	39.—Boyle Barracks	County Roscommon.
River Lee	40.—Blackrock	County Cork.
Belfast Lough	41.—Carrickfergus Castle.	
Lough Erne	42.—Enniskillen Main Barracks.	
	43.—Enniskillen Castle Barracks.	
River Gort	44.—Gort Barracks	County Galway.
River Blackwater	45.—Navan Barracks	County Meath.

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Clerk of Conservators, Dublin Fishery District, to Colonel *Rose*, Royal Engineers.

Conservators of Fisheriss, Duhlin District,
Office, 60, Dawson-street, Duhlin,
17 Ssptember 1858.

Sir,

Referring to your letter of the 19th June last, forwarding a list of 45 stations at which the War Department consider they have rights of fishing,

I herswith return the enclosures, and hsg leave to inform you that I have very carefully gone through the list, mads extensive inquiries, visited some of the stations, and find thers are many places on it which would manifestly encroach upon the well-known and established several fishery of another, and there are many others where the breadth of the channel, and other provisions of the fishery laws, would prevent the War Department exercising an sxclusivs or even any right of fishing: for instanee, those stations in Lough Foyle and Galway are in the several fisheries of others, and any attempt at fishing there would render the War Department open to a lawsuit, and their tenant to a penal conviction under ths fishery laws; while those at the Pigeon Honse, and other places on the sea-coast, ths provisions of the fishery laws wonld interfere with.

There are a great numher of circumstances connected with each station, prohahly quite different from thoss of another; and therefore I would recommend that before the War Department take any steps to let the rights of fishing, they should clearly ascertain their rights, and the provisions of the fishery laws bearing on them, which would, perhaps, he most easily effected by a conference with the Commissioners of Fisheries, or otherwise.

I have, &c.
(signed) *Augustus Brophy*,
Clerk of Conservators,
and Inspector of the District.

Colonel C. Rose,
Commanding Royal Engineers, Ireland,
Dublin Castle.

The Chief Secretary, Ireland, to the Secretary of State for War.

Sir,

Dublin Castle, 6 December 1858.

Referring to my letter of the 13th ultimo, relative to letting certain fishery stations on the coast of Ireland, I am directed by the Lord Lieutenant to transmit for your information copy of resolutions of the Limerick Board of Conservators, together with a memorandum forwarded therewith. I also enclose copy of a communication* from the Chairman of the Board of Public Works, who are also Commissioners of Fisheries; and I am desired by his Excellency to call your attention to these documents, and to express his Excellency's hope that no further steps may be taken at present in this matter.

* *See* page 5.

I am, &c.
(signed) *Naas*.

The Right Honourable Major General Peel.

Resolutions by Limerick District Conservators.

At a Meeting of the Finanes Committee of the Limeriok Board of Conservators, held on the 2d instant, the following Resolutions were unanimonely adopted:—

Resolved,—That Mr. Rohinson he reqnested, on the part of the Board, to wait on Lord Naas and on the Commissioners of Fisheries, and earnestly request that they will use their influence to ohtain from the present Inspector General a peremptory order to the Constabulary to he vigilant in enforcing the ohservance of the close season, as the order issued hy the late Inspector General was not attended with the good effeets which had heen anticipated.

Resolved,—That Mr. Rohinson be also requested to rspresent to Lord Naas the dissatisfaction of the Board at the practice lately adopted hy the Board of Ordnance, letting shores or strands in the River Shannon for fishery purposes, as the Board conceive that any attempts on the part of the Board of Ordnance, or any Government Department, to establish claims in fisheries will seriously interfere with long-estahlished puhlic rights, and he productive of much public discontent.

9 November 1858.

(signed) *J. B. Alton*.

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MEMORANDUM to Lord *Naas*, handed in by Deputation from Limerick Conservators.

List of Stations in *Ireland* proposed to be set by the War Department for Fishing for Salmon.

Dublin Bay:
1. Pigeon House Fort.
2. Magbera Point.
3. Loughlinstown.
4. Dalkey Island.
5. Sandy Cove.
6. Sutton.
7. Howth.
8. Balcarrick.
9. Skerries and Red Island.

River Liffey:
10. Newbridge Barracks.

Lough Swilly:
Dunree Fort.
Knockalla.
Ned's Point.

Lough Foyle:
Green Castle - } - - Derry.
Magilligan - -}

Galway Bay:
Aughuisb - -} - - Clare.
Tinnevarra - -}

Cashlea - - -} - - Galway.
Kinmore - -}

Bantry Bay:
Garnish Island.

Upper Shannon:
Shannon Bridge.
Lamb Island.
Keelogue.

Lower Shannon:
Limerick Castle Barracks.
King's Island.
Tarbert.
Doonaha.
Scattery Island.
Kileredane.

Cork Harbour:
Haulbowline Island.
Rocky Island.
Spike Island.
Camden Fort.
Carlisle Fort.

Lough Mahon:
Manning Tower, on Great Island Creek.

Kinsale Harbour:
Charles Fort.

River Fergus:
Clare Castle Barracks.

Waterford Harbour:
Duncannon Fort.

River Boyle:
Boyle Barracks.

River Lee:
Blackrock.

Belfast Lough:
Carrickfergus Castle.

Lough Erne:
1. Enniskillen Barracks.
2. Castle Barracks.

River Gort:
Gort Barracks.

River Blackwater:
Navan Barracks.

ASSUMING that the lands on which the forts or barracks are situated are held by the War Department under such a title as mentioned in the 5 & 6 Vict. c. 106, it would not constitute that department the owner of a several or exclusive fishery, but would merely give them the right, in a tideway, to set a fixed net attached to that part of the shore adjoining such land; but subject, however, to the provisions of the Act, and such not being within the limits of any several or exclusive fishery of another, *i. e.*, not encroaching on private rights. But the law does not give them the power to prevent the public from fishing in the *locus in quo* with draft or any engine other than fixed engines. It particularly saves the rights of the public, and all other rights which grant the privilege to set the fixed engines.

A great number of the stations named in this list are in tideways whose channels are less than three-quarters of a mile wide at low water (for instance, the Pigeon House, Limerick Castle, King's Island, &c.), and to set any fixed net for the capture of fish in such places would be directly contrary to law.

A number of them are manifestly in the several or exclusive fishery of others; and it would be contrary to law to use any engine for the capture of fish within the several fishery of another, and render the parties doing so liable to very heavy penalties.

Instance:—The stations in Lough Foyle are in the established several fishery of the Honourable the Irish Society, and an injunction from the late Lord Chancellor is at present in force there, preventing any person fishing there, or taking salmon from thence by any means whatever:

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Likewise Galway Stations, in the established several fishery of the Messrs. Ashworth; also Castle Island or King's Island, and Limerick Castle, the property of Messrs. Malcolmson.

A number of the stations are in the freshwaters, where no nets for the capture of salmon have been heretofore used, and where (even assuming the War Department to hold the lands adjoining the freshwaters of a river by such a title as would alone constitute them the owner of a several fishery in the freshwaters, viz. in fee,) it might be of the greatest injury to the interests of the salmon fishery of a river to do so; and to use such now would be directly in opposition to the policy and established principle of the present day.

It should be remembered that in the tideways, or where the sea ebbs and flows, the War Department are not the owners of a several fishery.

They can only have a certain right conferred on them by the 5 & 6 Vict. But the sea is, *primâ facie*, the property of the public, in the absence of any charter or patent granting the fisheries thereof to any other person or persons; and to establish such a grant, the works which convey should be definite and distinct, and the particular fishery granted must be named; for instance, if land is granted, together with all fisheries, it gives no exclusive title to fish. A grant cannot convey by implication. This was decided in several cases. Unless the fishery is described in the grant, and a clear intention is evident, no right of fishery passes.

It is presumed the War Department have no such grants, and if not, they have, therefore, no exclusive or several fishery in any of the places mentioned, and could not, therefore, prevent the public from fishing with draft-nets in the same place in which they might have set a right to fish with fixed engines.

It is, therefore, to say the least, very likely to lead to much litigation and create a very bad feeling in the country, if this right, conferred on the owners of land adjoining the seashore, of setting fixed engines for the capture of salmon, by the Legislature, be exercised by a department which was not contemplated at the time of the passing of that Act in 1842 which conferred such rights.

In the inland or freshwaters of a river the case is different.

The owners in fee of lands adjoining the river are, *primâ facie*, owners of the several fishery in the river as far as their property extends, and would have the right to fish. But such is not generally exercised, as it might lead to very detrimental results to the fishery of a whole river to use nets in many places in the freshwaters.

Colonel *White* to the Chief Secretary.

My Lord, Woodlands, 18 December 1858.

I VENTURE to bring under your observation the following statement regarding the Ordnance Fishery at Kilkeryne, in the barony of Clonderlaw and county of Clare.

Kilkeryne is the name of the battery on the Shannon, opposite to Tarbert; and the site for the battery, containing about five acres (Irish), was purchased over 60 years ago from one of the Westropp family, who then held the lands.

In May last I became the purchaser, in the Encumbered Estates Court, of the fee-simple of the Kilkeryne Estate, consisting of the townlands of Cullinagh, Ballina, and Kilkeryne, on a sub-denomination of which, called Lackyle, the battery stands. Having purchased the fee of the estate, I of course bought with it the right of fishing for salmon in the Shannon, under the 5 & 6 Vict. c. 106; but I find that the Board of Ordnance last year let the right of fishing on the shore, opposite the battery, to Mr. Hoare of Dublin (as I have heard), for a sum of 15 *l.*, with another right of fishing in Kerry. Mr. Hoare drove off the tenant of Mr. Westropp, who was frightened at the prospect of a suit with the Crown, especially when he was about to sell the estate; though up to the past year or two the Ordnance never, as I am informed, attempted to fish there.

My predecessor, up to that time, and his tenants to the fishery, fished on the Ordnance ground, and were never prevented or interfered with, except as I have described; and what I now respectfully request your Lordship's attention to is, that the claim of the Ordnance Board is not one which ought to be maintained against the rights of individuals. The purpose for which the site for the battery was taken is easily understood; but I deny it was ever contemplated, and, if contemplated, I assert it is against public policy, that the Board of Ordnance should become the lessors of fisheries in Ireland. Having refrained for 50 years from exercising such a right, it is, I presume, too late now to set up such a claim, though I am well aware lapse of time would and ought not to bar the Crown when public policy or necessity justified the assertion of the right: moreover, if any necessity existed, or public benefit could be conferred, I would at once

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once waive such a right, were I undisputed master of the fishery to-morrow. It is always unpleasant to litigate a question with the officers of the Ordnance, or, indeed, any other public Board; they feel constrained to defend a right, or supposed right, to the last; and the action or suits, inexpensive to them, may ruin an individual. In this case the question is so unimportant, that it ought not to be asserted by the Ordnance or persisted in. At present, several other parties in Ireland labour under a similar grievance, and had the honour of an interview with your Lordship, at which you were good enough to say the matter should be fully considered; and I take the liberty to add my complaint to those already made, and to ask you to bring the matter under the consideration of the Irish Government, in order that the right so claimed in the Kilkeryne Fishery may be abandoned. Should your Lordship require any further information, I will be happy to afford it; and my agent, Mr. William L. Joynt, of Limerick, will afford every assistance for the better understanding of the matter, and the reasonable and just settlement thereof.

I have, &c.
(signed) *Henry White.*

The Board of Works to the Chief Secretary.

Office of Public Works, Dublin,
30 December 1858.

My Lord,

I HAVE the honour to return herewith, by direction of the Commissioners of Public Works, the papers relative to the fishing rights of the War Department, forwarded for the information of this department by your Lordship on the 14th instant, and to state that the Board have perused the correspondence.

I have, &c.
(signed) *E. Hornsby,*
Secretary.

The Right Hon. Lord Naas, M.P.,
Dublin Castle.

The Chief Secretary to the Secretary of State for War.

Dublin Castle, 17 January 1859.

Sir,

REFERRING to your letter of the 4th ultimo, relative to the letting by the War Department of the right of fishing at various stations in Ireland, I return herewith the enclosures which accompanied your communication; and I am at the same time desired to state, that a representation has been again made, on the part of the Limerick Board of Conservators, pressing for a decision upon the subject.

I am, &c.
(signed) *Naas.*

Sir B. Hawes, K.C.B.

The Under Secretary of State for War to the Chief Secretary, Ireland.

War Office, 26 January 1859.

My Lord,

I HAVE the honour, by desire of Secretary Major General Peel, to acknowledge the receipt of your Lordship's letter of the 17th instant, relative to the letting, by this department, of the rights of fishing at various stations in Ireland.

I am directed to acquaint you, for the information of his Excellency the Lord Lieutenant, that Major General Peel is instituting very full inquiries into the subject, and hopes shortly to be in a position to transmit a definite reply to your Lordship.

I have, &c.
(signed) *Hardinge.*

Lord Naas, M.P., Dublin Castle.

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Colonel *Henry White* to Lord *Naas*.

KILKERYNE FISHERY, CO. CLARE.

Woodland, Clonsilla, Co. Dublin,
11 February 1859.

My Lord,

I HAN the honour to address you, some weeks back, a letter touching the right claimed by the Board of Ordnance to fishing at Kilkeryne, in the barony of Clonderlaw and county of Clare.

I consider the claim of the Board so unwarranted by usage, public policy, or justice, that I merely delayed taking steps in the matter until I had your Lordship's reply, which I still hope may announce the abandonment of the claim, as far as it interferes with me. I will therefore feel thankful for your reply at your earliest convenience.

I am, &c.
(signed) *Henry White.*

The Right Honourable Lord Naas, M.P.

The Under Secretary of State for War to the Chief Secretary, Ireland.

War Office, 11 March 1859.

My Lord,

I HAVE the honour, by desire of Secretary Major General Peel, to acknowledge the receipt of your Lordship's letter of 15th ultimo, relative to the letting of rights of fishing at various stations in Ireland, and to inform you that the fishery at Kilkeryne, County Clare, has been let by their department to Mr. Hoare since January last; and General Peel does not consider it fair to the public to abandon, in favour of a private individual, a source of revenue which, to however small an extent, still tends to diminish the general cost of the establishment of the War Department.

With respect to other fisheries in Ireland not yet let, to which the War Department claims a right, I am to inform your Lordship that these claims are now in course of investigation by eminent counsel, and that, before any instructions are given thereupon, the list shall be submitted to you for the consideration of the Lord Lieutenant of Ireland.

I have, &c.
(signed) *Hardinge.*

The Lord Naas, M.P., Irish Office, S.W.

The Chief Secretary to Colonel *White*.

Irish Office, Whitehall,
14 March 1859.

Sir,

REFERRING to your letter of the 11th ultimo, relative to the right claimed by the War Department to the fishery at Kilkeryne, County Clare, I beg to acquaint you that I have communicated with the Secretary of State for War upon the subject, and, in reply, have been informed that the fishery at Kilkeryne has been let by that department to Mr. Hoare since January last; and General Peel does not consider it fair to the public to abandon, in favour of a private individual, a source of revenue which, to however small an extent, still tends to diminish the general cost of the establishment of the War Department.

I have, &c.
(signed) *Naas.*

Colonel Henry White, M.P.

The Under Secretary of State for War to the Chief Secretary.

War Office, 15 March 1859.

My Lord,

WITH reference to the communication from this office, dated 11th instant, (Dublin—322), respecting the unlet fisheries in Ireland, to which the War Department claims a right,

I am

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I am directed by Secretary Major General Peel to transmit, for the early approval of his Excellency the Lord Lieutenant, a list, drawn up by the Commanding Royal Engineer in Ireland, of stations at which it is proposed to let the right of fishing. On the receipt of his Excellency's approval, authority will be given to the Commanding Royal Engineer to call for tenders, and a further list will be forwarded so soon as certain information respecting the remaining stations has been obtained.

I have, &c.

The Lord Naas, M.P., Irish Office, S. W. (signed) *Rosslyn.*

P. S.—The return of the list is requested.

IRELAND.

LIST of Stations at which it is proposed to Let the Right of Fishing off the War Department's Lands.

Office of Commanding Royal Engineers in Ireland,
Dublin, 1 February 1859.

Dublin Bay, South - -	No. 4 Tower, Maghera Point. No. 6 Tower, Loughlinstown. No. 9 Tower, Dalkey Island.
Dublin Bay, North - -	No. 3 Tower lands, Howth. No. 6 Tower lands, Ballycarrick. No. 11 Tower lands, Skerries or Red Island.
Lough Foyle - - -	Green Castle. Magilligan.
Lower Shannon - -	Tarbert. Doonaha. Scattery Island. Kilkadrane.
River Boyle - - -	Boyle Barracks.
Belfast Lough - - -	Carrickfergus Castle.
Lough Erne - - . .	Enniskillen Main, and Castle Barrack.

(signed) *Cowper Rose*, Colonel,
Commanding Engineers.

Colonel *Cowper Rose* to Inspector General of Fortifications.

Dublin, 1 February 1859.

Sir,

I HAVE the honour to transmit a list of stations in Ireland, at which I propose to let the right of fishing, and have to request your authority to advertise for tenders, according to the enclosed form and draft advertisement.

As regards Green Castle and Magilligan or Lough Foyle, I beg to refer you to my report, 20th December 1858, in reply to (Londonderry—12—1), on the claim to the fishery set up by the tenant of the Irish Society, and to transmit a copy of the trial alluded to in that report, resulting in the verdict to be found at page 111—"That the Irish Society were entitled to the fisheries in the lough and river of Lough Foyle, from the Greenbrass, near Strabane, to the ferry between Greencastle and Magilligan."

The War Department property, it will be seen by the enclosed plan, is outside the boundary (the ferry) as defined by the Jury; and therefore the claim of the Irish Society's tenants, so far as these two posts are concerned, does not appear valid.

There are a great many other stations bounded by water, but a number of them come within the prohibiting clauses of the Fishery Act (5 & 6 Vict. c. 106), which requires that in the tidal part of any river, the breadth of the channel must not be less than three-fourths of a mile; and therefore the following stations,

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stations, with many more of minor importance, have been excluded from the list:—

Camden and Carlisle Forts, Cork Harbour, Charles Fort, Kinsale Harbour, Pigeon House Fort (Dublin), King's Island, Limerick, &c. &c.

It further prohibits fishing within the several or exclusive fisheries of other proprietors, within which category I believe the ports in Lough Swilly and Galway Bay to come, and they too are therefore omitted.

In some cases stations have not been included in consequence of departmental objections, viz.:—

Rocky Island, on account of its magazines.
Haulbowline Island, on account of its military stores.
Spike Island, on account of its being a depôt for convicts.

In the two latter cases the objections, in which I quite concur, were made by the Military Storekeeper and the Directors of Government Prisons. Spike Island will be eligible whenever the convicts may be withdrawn.

There are still several stations at which I believe the department to possess the right of fishing, but respecting which I wish to make further inquiry before reporting on them to you.

The fishing season commences about the 12th of this month, and lasts until about 20th August, varying, however, according to locality.

It is requested that the report on the Lough Foyle Fishery case may be returned, as also the forms of advertisement and tender.

I have, &c.
(signed) *Cowper Rose*, Colonel,
Commanding Engineers.

The Inspector General of Fortifications.

The Under Secretary, Ireland, to the Chairman of the Board of Works.

Sir, Dublin Castle, 21 March 1859.

I AM directed by the Lord Lieutenant to transmit the enclosed correspondence, relating to certain fisheries in Ireland to which the War Department claims a right, and which that department propose to let; and I am to request that you will furnish me with a full report on each of the cases referred to in the appended list.

See letter from War Office, page 12.

It is requested that the enclosures may be returned.

I am, &c.
(signed) *Thomas A. Larcom.*

Sir R. Griffith, Bart.
&c. &c. &c.

The Under Secretary of State for War to the Chief Secretary, Ireland.

My Lord, War Office, 11 April 1859.

I AM directed by Secretary Major General Peel to request the favour of an early reply to my letter of 15th ultimo (Dublin—1—322), forwarding, for the approval of his Excellency the Lord Lieutenant, a list of stations in Ireland at which it is proposed to let the rights of fishing.

I have, &c.
(signed) *Rosslyn.*

The Lord Naas, M. P.
&c. &c. &c.

The Under Secretary, Ireland, to the Chairman of the Board of Works.

Sir, Dublin Castle, 12 April 1859.

REFERRING to my letter of the 21st ultimo, relating to certain fisheries in Ireland which it is proposed to let, I am directed by the Lords Justices to acquaint you that a communication has been received from Lord Rosslyn, pressing

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ing for an early reply to his letter; and I am desired by their Excellencies to request that you will furnish me with your answer to the communication above referred to with as little delay as practicable.

I am, &c.
(signed) *Thomas A. Larcom.*

Sir Richard Griffith, Bart.
&c. &c. &c.
Board of Public Works.

The Board of Works to the Under Secretary, Ireland.

Office of Public Works, Dublin,
14 April 1859.

Sir,

Referring to your letter of the 21st ultimo, transmitting correspondence between the Secretary of State for War and the Chief Secretary, relating to certain fisheries in Ireland to which the War Department claims a right, and which they propose to let, and requesting a report on each of the cases referred to in the list accompanying the letter from the Secretary of State; I am directed by the Board to forward, for the information of his Excellency the Lord Lieutenant, the accompanying observations on each station, and to state that the Board are unable to add anything further to the Chairman's letter, of the 3d December last, to the Chief Secretary, in regard to the policy of the War Department letting unimportant fisheries.

The papers are herewith returned.

I am, &c.
(signed) *E. Hornsby*, Secretary.

Dublin Bay, South: No. 4 Tower, Maghera Point No. 6 Tower, Loughlinstown. No. 9 Tower, Dalkey Island.	The public possess a right to fish in the waters connected with those places by means of floating or draft nets, the proprietors of lands only having the privilege of using fixed engines so far as those lands abut the shore; and the public are entitled, under the fishery laws, to haul their nets on all waste shores. The law prohibits the placing of fixed nets in such places as Dalkey Sound, the channel being less than three-fourths of a mile wide. It is very doubtful if fixed nets would operate successfully in any of the places here referred to.
Dublin Bay, North: No. 3 Tower lands, Howth - No. 6 Tower, Ballycarrick. No. 11 Tower, Skerries or Red Island.	The same remarks apply as in former cases.
Lough Foyle: Green Castle - - - Magilligan.	The Irish Society's title to the whole and exclusive fishings of Lough Foyle was confirmed by a verdict, had at Omagh Assizes before Baron Pennefather, two years since; and the Chancellor has granted an injunction to prevent any other persons fishing therein.
Lower Shannon: Tarbert - - - - Doonaha. Scattery Island. Kilkadrane.	The same remarks apply as to the right of the public to fish, the proprietors of lands only having the privilege of using fixed engines.
River Boyle: Boyle Barracks - - -	The owners in fee of lands adjoining freshwaters are entitled to the exclusive fishery in the waters, so far as their lands abut the waters. If the lands are all at one side of the river only, this right extends only to the middle of the stream. The breadth of the river at Boyle is, perhaps, about 50 feet; therefore only 25 feet would be available under the barracks, if, in granting a small piece of land for the purposes of a barrack, the right of fishing has been also conveyed. However the right here to fish in half the river, as far as the barrack boundaries may extend along its banks, is of no appreciable value.
Belfast Lough: Carrickfergus Castle - -	The same observations apply as to the other tidal waters.
Lough Erne: Enniskillen Main and Castle Barracks.	The same remarks apply as to the Boyle River.

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The Under Secretary, Ireland, to the Under Secretary of State for War.

My Lord, Dublin Castle, 15 April 1859.

Referring to your Lordship's letters, of the 15th ultimo and 11th instant, relative to the proposed letting of certain fisheries in Ireland, I am directed by the Lords Justices to transmit, for the information of Secretary Major General Peel, copy of a report which has been received from the Commissioners of Public Works, as Commissioners of Fisheries, upon the above subject; and I am desired by their Excellencies to observe that, under the circumstances represented, it will be for the War Department to consider whether, to the extent to which it is deemed the department has that power, it is desirable to let the fisheries, which may lead to litigation and ill-feeling.

I have, &c.
(signed) *Thos. A. Larcom.*

The Earl of Rosslyn, &c. &c.,
War Office, London.

The Under Secretary of State for War to the Chief Secretary, Ireland.

Sir, War Office, 3 September 1859.

I have the honour, by desire of Mr. Secretary Herbert, to request you will bring under the notice of the Lord Lieutenant the question of letting the War Department Fisheries in Ireland, upon which much correspondence passed between the late Secretary of State for War and the Government of his Excellency's predecessor. Major General Larcom, in his letter of the 15th April (3393), transmitted a report upon the subject from the Commissioners of Public Works (being also Commissioners of Fisheries), which does not dispute the rights of the department to let the fishery, except in Lough Foyle; and this part of the case has been fully investigated, as shown by the Commanding Royal Engineer's letter of the 1st February last, a copy of which is herewith transmitted.

There remains to be considered the objection that the letting will give rise to ill-feeling and litigation.

If it could be demonstrated that the resumption of these long-neglected rights would inflict any real hardship upon anybody, Mr. Herbert would not be disposed to insist on the legal rights of the department, although the revenue sacrificed be a considerable one; but the reports received from the officers of this department in Ireland state that their abandonment "would not lead to any public advantage, nor to the advantage of individuals, with the exception of the owners of other fisheries; and the only benefit they could derive would be from their chances not being diminished by an increased number of fishing stations."

In the face, however, of the strong opinion expressed upon the subject by the late Irish Government, Mr. Secretary Herbert is unwilling to give any positive orders on the subject until his Excellency has had an opportunity of stating whether he concurs in the view expressed by his predecessor.

Should his Excellency wish for any further information upon the subject, Colonel Frome, the Commanding Royal Engineer in Ireland, will be happy to afford it to him.

I have, &c.
(signed) *J. R. Godley.*

The Right Honourable E. Cardwell, M. P.,
Dublin Castle.

Board of Works to Major General *Larcom*, R.E., Dublin Castle.

Sir, Office of Public Works, Dublin, 11 November 1859.

Adverting to your reference of the 9th September last of a further correspondence with the Secretary of State for War, on the subject of letting the rights of fishing in Ireland claimed by the War Department, and your further reference of a letter from Colonel White, dated the 29th ultimo, complaining that that Department had set the right of fishing at Kilkerrin, being on his estates purchased in the Encumbered Estates Court, I am directed by the Board to state, for

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for the information of his Excellency the Lord Lieutenant, that they have again read and considered the several documents relating to this subject, and have nothing to add to their previous communications; but they would observe that the trifling rent which might possibly be obtained by letting the right of fishing by fixed nets, has been considerably reduced by the amended list of stations to be let, forwarded by the Commanding Engineer.

The Board are still of opinion that much inconvenience may arise to proprietors of estates by interfering with their rights of fishing on the shores of each estate, by the Board of Ordnance letting or disposing of the fishing of the small portion which adjoins the land purchased by that Board for the national defences of the country.

I return the papers herewith,

And have, &c.
(signed) *E. Hornsby,*
Secretary.

Major General Larcom, R.E.
Dublin Castle.

The Under Secretary of State for War to the Chief Secretary.

Sir, War Office, 21 November 1859.

I HAVE the honour, by desire of Mr. Secretary Herbert, to request you will favour him with a reply to the letter from this office of the 3d September last (Dublin—379—1), on the subject of letting the War Department Fisheries in Ireland.

I have, &c.
(signed) *J. R. Godley.*

The Right Hon. E. Cardwell, M.P.
&c. &c. &c.
Dublin Castle.

The Under Secretary, Ireland, to the Under Secretary of State for War.

Sir, Dublin Castle, 3 December 1859.

WITH reference to your letter of the 3d September last, relative to the letting of the War Department Fisheries, I am directed by the Lord Lieutenant to acquaint you, for the information of Mr. Secretary Herbert, that, looking to the trifling rent which will be derived from letting the right of fishing by fixed nets, to the inconvenience which will arise to proprietors of estates, and to the great dissatisfaction which is likely to be created throughout the country in consequence of such interference, his Excellency is disposed to concur in the view expressed by his predecessor and the Commissioners of Fisheries, and recommends that no further steps be taken in the matter.

I am, &c.
(signed) *Thomas A. Larcom.*

J. R. Godley, Esq.

The Under Secretary of State for War to the Under Secretary, Ireland.

Sir, War Office, 15 December 1859.

I AM directed to acknowledge the receipt of your letter of the 3d instant, and to acquaint you, for the information of his Excellency the Lord Lieutenant, that Mr. Secretary Herbert concurs in the view expressed by his Lordship that no further steps should be taken for letting the War Department Fisheries in Ireland; and I am to state that the Commanding Royal Engineer in that command has been apprised of the decision arrived at, which, however, Mr. Herbert considers should not apply to those already let.

I have, &c.
(signed) *J. R. Godley.*

Major General T. Larcom, C.B.
&c. &c. &c.
Dublin Castle.

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The Under Secretary of State for War to the Under Secretary, Ireland.

Sir, War Office, 31 January 1860.

With reference to my communication, dated 15th ultimo, on the subject of the right of fishing with fixed nets off the several properties belonging to the War Department in Ireland, I am directed by Mr. Secretary Herbert to state that, upon reconsideration, he is of opinion that the rights of the department should not be allowed to become obsolete.

It further appears that no one profits by the abandonment of those rights, as no one can exercise them without committing a trespass upon the War Department property.

At the same time, Mr. Herbert recognises that there may be an inconvenience to proprietors of adjoining fisheries, by the admission of those who might offer the highest rent for them; and therefore, out of deference to them and to the opinions of the Irish Government, Mr. Herbert has given directions to offer the fisheries to the owners of adjacent properties at a fair valuation; and it will only be in the event of such offer meeting with a refusal that the fisheries in question shall be let by public competition.

Mr. Herbert trusts that the Lord Lieutenant will concur with him in the desirableness of this arrangement.

I have, &c.
(signed) *J. R. Godley.*

Major General Larcom, R. E.,
&c. &c. &c.
The Castle, Dublin.

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FISHERIES (IRELAND).

COPY of CORRESPONDENCE between the Ordnance or Royal Engineers' Department, the Executive Government, the Commissioners for Fisheries, &c., with reference to settling the Rights of FISHING on the SHORES of the LANDS in the Possession of the ORDNANCE DEPARTMENT in *Ireland*.

(*Colonel French.*)

Ordered, by The House of Commons, *to be Printed,*
4 *May* 1863.

231.

Under 3 *oz.*

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